

1 Daniel H. Silverman (*pro hac vice*)
2 dsilverman@cohenmilstein.com
3 **COHEN MILSTEIN SELLERS & TOLL**
4 **PLLC**
5 769 Centre Street, Suite 207
6 Boston, MA 02130
7 Telephone: (202) 408-4600
8 *Counsel for Plaintiffs Don Copeland, Joseph*
9 *Murray, Carol Smith, Patrick Whitney, Phillip*
10 *Hague, Denise Fotis, Roxann Doriott, Bruce*
11 *Mims, Lori Ably, Timothy Brown, Peter Costas,*
12 *and Mike Ballard and Proposed Lead Counsel*
13 *for Indirect Purchaser Class*

14
15 Sarah Grossman-Swenson (SBN 259792)
16 Kimberley C. Weber (SBN 302894)
17 **MCCRACKEN STEMERMAN &**
18 **HOLSBERRY LLP**
19 475 14th Street, Suite 1200
20 Oakland, CA 94612
21 (415) 597-7200
22 sgs@msh.law
23 kweber@msh.law
24 *Local Counsel for Plaintiffs*
25 *[Additional Counsel on Signature Page]*

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

DON COPELAND, JOSEPH MURRAY,
CAROL SMITH, PATRICK WHITNEY,
PHILLIP HAGUE, DENISE FOTIS,
ROXANN DORIOTT, BRUCE MIMS, LORI
ABLY, TIMOTHY BROWN, PETER
COSTAS, and MIKE BALLARD, on behalf
of themselves and those similarly situated,

Plaintiffs,

vs.

ENERGIZER HOLDINGS, INC.; AND
WAL-MART, INC.,

Defendants.

Case No: 4:23-cv-02087-HSG

**PLAINTIFFS' NOTICE OF MOTION TO
APPOINT INTERIM LEAD CLASS
COUNSEL PURSUANT TO FED. R. CIV. P.
23(g); MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT THEREOF**

Date: July 6, 2023

Time: 2:00 p.m.

Courtroom: 2, 4th Floor

Judge: Hon. Haywood S. Gilliam, Jr.

NOTICE OF MOTION AND MOTION

TO ALL PARTIES AND THEIR ATTORNEY OF RECORD:

PLEASE TAKE NOTICE that on July 6, 2023, at 2:00 p.m., or as soon thereafter as this motion may be heard, in the courtroom of the Hon. Haywood S. Gilliam, Jr. of the United States District Court of the Northern District of California, Oakland Division, located at 1301 Clay Street, Oakland, California, Plaintiffs will and hereby do move the Court pursuant to Federal Rule of Civil Procedure 23(g)(3) for an order appointing Cohen Milstein Sellers & Toll PLLC (“Cohen Milstein”) as interim lead class counsel for the proposed indirect purchaser plaintiff (“IPP”) class in *Copeland, et al., v. Energizer Holdings, Inc., et al.*, No. 4:23-cv-02087-HSG.

The Motion is based on this Notice, the following Memorandum of Points and Authorities in support of the Motion, the Declaration of Daniel H. Silverman in support, as well as the pleadings on file and any other and such papers and argument submitted to the Court before or at hearing on the Motion.

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MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

The twelve named Plaintiffs¹ in this case respectfully move the Court to appoint Cohen Milstein as interim lead class counsel. Appointing interim lead class counsel now will ensure the effective representation of the proposed class and is warranted under Federal Rule of Civil Procedure 23(g).

Cohen Milstein has the experience, resources, and track record necessary to provide the class with the best possible representation. Cohen Milstein is one of the nation’s most prominent plaintiff-side firms litigating complex antitrust cases, having successfully led myriad antitrust class actions, including many in this District. In this case, Cohen Milstein has worked diligently to develop the critical facts and investigate the law alongside three other law firms—Schneider Wallace Cottrell Konecky LLP, Berger Montague PC, and Gibbs Law Group LLP—that have filed related cases on behalf of direct purchasers of Energizer Battery Products (collectively referred to as the “Direct Purchaser Plaintiffs”).² The close working relationship between Cohen Milstein and the firms representing Direct Purchaser Plaintiffs will promote efficiency and minimize duplication as these related cases proceed.

Appointing interim lead class counsel now is also vital to ensure that the proposed class has a coordinated approach to the many critical substantive issues that arise well before class certification—briefing motions to dismiss, negotiating a case schedule, and conducting the vast majority, if not all, discovery. During those crucial parts of the case, the class is entitled to experienced and competent counsel able to devote the substantial resources necessary to vigorously litigate the issues. Indeed, Energizer Holdings, Inc., and Walmart, Inc. (“Defendants”) have already hired prominent law firms, and it appears that this case will be vigorously litigated from the outset. As interim lead class counsel,

¹ Plaintiffs are Don Copeland, Joseph Murray, Carol Smith, Patrick Whitney, Phillip Hague, Denise Fotis, Roxann Doriott, Bruce Mims, Lori Ably, Timothy Brown, Peter Costas, and Mike Ballard.

² The cases brought by direct purchasers are *Portable Power, Inc. v. Energizer Holdings, Inc.*, No. 4:23-cv-02091-HSG (N.D. Cal.), and *Schuman v. Energizer Holdings, Inc.*, No. 4:23-cv-02093-HSG (N.D. Cal.).

1 Cohen Milstein will ensure the case proceeds effectively and efficiently in the best interests of the
 2 class.

3 **II. BACKGROUND AND LEGAL STANDARD**

4 Cohen Milstein filed a Class Action Complaint on behalf of Plaintiffs on April 28, 2023, at the
 5 same time as the Direct Purchaser Plaintiffs. *See* Class Action Complaint (“Complaint”), *Copeland v.*
 6 *Energizer Holdings, Inc.*, No. 4:23-cv-02087-HSG (N.D. Cal. Apr. 28, 2023), ECF No. 1. Plaintiffs
 7 seek to serve as class representatives in this antitrust action brought on behalf of indirect purchasers
 8 who claim to have paid artificially inflated prices for Energizer Battery Products (the “Proposed
 9 Class”). *Id.* ¶ 12. Plaintiffs allege that Defendants Energizer and Walmart entered into an
 10 anticompetitive agreement to (1) inflate wholesale prices for Energizer Battery Products to purchasers
 11 other than Walmart and (2) prevent Energizer’s wholesale customers from charging retail prices below
 12 Walmart’s. *Id.* ¶ 8. Plaintiffs allege this scheme artificially inflated the prices Plaintiffs paid for
 13 Energizer Battery Products, in violation of federal and state antitrust laws and state consumer
 14 protection laws. *Id.* ¶¶ 141–517.

15 Rule 23(g)(3) provides that courts “may designate interim counsel to act on behalf of a putative
 16 class before determining whether to certify the action as a class action.” *Bartling v. Apple Inc.*, No.
 17 5:18-cv-00147-EJD, 2018 WL 4804735, at *1 (N.D. Cal. Apr. 27, 2018) (quoting Fed. R. Civ. P.
 18 23(g)(3)). “[D]esignation of interim counsel clarifies responsibility for protecting the interests of the
 19 class during precertification activities, such as making and responding to motions, conducting any
 20 necessary discovery, moving for class certification, and negotiating settlement.” Manual for Complex
 21 Litigation (Fourth) § 21.11 (2004).³

22 Given these benefits, courts frequently appoint interim class counsel in putative antitrust class
 23 actions, at least in part because antitrust class actions typically require extensive discovery and expert
 24 work well before class certification and, therefore, necessitate unified, competent, and court-
 25 authorized leadership from the outset. Indeed, appointing interim class counsel also gives *defendants*
 26

27 ³ *See also Good v. Am. Water Works Co.*, No. CIV.A 2:14-01374, 2014 WL 2481821, at *3
 28 (S.D.W. Va. June 3, 2014) (“The interim appointment may produce significant benefits in terms of
 coordinating the litigation in the pre-certification context.”).

1 comfort that, when they reach important agreements early in the case (regarding, *inter alia*, discovery,
 2 protective orders, confidentiality, scheduling, etc.), they are doing so with counsel who are authorized
 3 to represent the proposed class. It is therefore the norm in antitrust class actions in this District to
 4 appoint interim lead or co-lead counsel well before class certification. *See, e.g.*, Order Appointing
 5 Interim Co-Lead Class Counsel, *Yuen v. IDEXX Laboratories, Inc.*, No. 3:22-cv-04297-TLT (N.D.
 6 Cal. Sept. 26, 2022), ECF No. 52 (appointing interim co-lead class counsel team including Cohen
 7 Milstein); Order Appointing Interim Co-Lead Counsel, *In re: Da Vinci Surgical Robot Antitrust Litig.*,
 8 No. 3:21-cv-03825-VC (N.D. Cal. Sept. 24, 2021), ECF No. 54 (appointing interim class counsel team
 9 including Cohen Milstein).

10 When determining whether to appoint interim class counsel, courts typically apply the factors
 11 that govern appointing class counsel upon a grant of class certification. *See, e.g.*, *Bartling*, 2018 WL
 12 4804735, at *1.⁴ Those factors are: “(i) the work counsel has done in identifying or investigating
 13 potential claims in the action; (ii) counsel’s experience in handling class actions, other complex
 14 litigation, and the types of claims asserted in the action; (iii) counsel’s knowledge of the applicable
 15 law; and (iv) the resources that counsel will commit to representing the class.” Fed. R. Civ. P.
 16 23(g)(1)(A). Courts may also “consider any other matter pertinent to counsel’s ability to fairly and
 17 adequately represent the interests of the class.” Fed. R. Civ. P. 23(g)(1)(B).

18 **III. ARGUMENT**

19 Cohen Milstein satisfies the Rule 23 factors and is well suited to serve as interim lead class
 20 counsel. In particular, Cohen Milstein (1) worked alongside three other firms representing Direct
 21 Purchaser Plaintiffs to investigate the allegations in the Complaint and develop Plaintiffs’ claims; (2)
 22 possesses specialized expertise in antitrust law, including cases involving both horizontal and vertical
 23 agreements, and has consistently achieved exceptional results in antitrust class actions; (3) will expend
 24 sufficient resources to litigate the case; (4) has associated with experienced local counsel in this
 25 District; and (5) will litigate the case efficiently on behalf of the proposed class.

26
 27

⁴ *See also Parkinson v. Hyundai Motor Am.*, No. CV06-345AHS(MLGX), 2006 WL 2289801, at
 28 *2 (C.D. Cal. Aug. 7, 2006).

1 **1. Cohen Milstein Has Done Original Work to Develop the Claims of Class Members.**

2 The first factor in determining interim class counsel is the work counsel has undertaken to
 3 identify and investigate potential claims in the action. *See* Fed. R. Civ. P. 23(g)(1)(A)(i). This factor
 4 strongly supports the appointment of Cohen Milstein, which has “already devoted substantial time and
 5 effort cooperatively investigating the matters alleged in the complaint.” *Moehrl v. Nat'l Ass'n of*
 6 *Realtors*, (“*Moehrl*”) No. 19-cv-01610, 2020 WL 5260511, at *2 (N.D. Ill. May 30, 2020) (appointing
 7 Cohen Milstein and other firms as interim co-lead class counsel). In particular, Cohen Milstein spent
 8 over five months investigating and developing this case alongside counsel for the Direct Purchaser
 9 Plaintiffs.

10 Cohen Milstein and counsel for the Direct Purchaser Plaintiffs are the only firms to have
 11 undertaken this investigative work. After completing its investigation, Cohen Milstein then scrutinized
 12 the strength of the legal claims of twelve named Plaintiffs, who collectively were harmed by
 13 Defendants’ anticompetitive conduct in thirteen states accounting for approximately 63% percent of
 14 the population in the Repealer Jurisdictions covered by the Complaint. Compl. ¶ 13 (defining Repealer
 15 Jurisdictions). Only then did Cohen Milstein file the detailed Complaint alleging an unlawful and
 16 anticompetitive scheme in violation of the Sherman Act and the antitrust and consumer protection
 17 laws of several states.

18 **2. Cohen Milstein Obtains Superior Results in Class Action Litigation.**

19 The proposed class should be represented by counsel that will get the best results. Fed. R. Civ.
 20 P. 23(g)(1)(A)(ii)-(iii) (court must consider “counsel’s experience in handling class actions, other
 21 complex litigation, and the types of claims asserted in the action,” as well as “counsel’s knowledge of
 22 the applicable law”). Cohen Milstein has a team of antitrust class action experts with a track record of
 23 success in similar cases. It is one of the oldest, largest, and most experienced firms dedicated primarily
 24 to the prosecution of class actions. *Forbes* has called Cohen Milstein a “class-action powerhouse,”
 25 while *Inside Counsel* has dubbed Cohen Milstein “the most effective law firm in the United States for
 26 lawsuits with a strong social and political component.”

27 Cohen Milstein’s Antitrust Practice Group has achieved an impressive series of wins over the
 28 course of nearly five decades. *See* Silverman Decl., Ex. A (CMST Brochure). In *In re: Urethane*

1 *Antitrust Litig.*, Cohen Milstein secured the largest *ever* price-fixing jury verdict—\$1.06 billion after
 2 trebling and offsets for pretrial settlements. Judge John W. Lungstrum commented: “In almost 25 years
 3 of service on the bench, this Court has not experienced a more remarkable result.” No. 04-1616-JWL,
 4 2016 WL 4060156, at *4 (D. Kan. July 29, 2016). Other recent successes for Cohen Milstein include
 5 *In re: Elec. Books Antitrust Litig.* (“*E-Books*”), No. 1:11-md-02293 (S.D.N.Y.) (more than \$550
 6 million in settlements); *In re Domestic Drywall Antitrust Litig.* (“*Domestic Drywall*”), No. 2:13-md-
 7 02437 (E.D. Pa.) (\$190 million in settlements); and *In re Broiler Chicken Antitrust Litig.* (“*In re
 8 Broilers*”), No. 1:16-cv-08637 (N.D. Ill.) (\$181 million in settlements). *The Legal 500* named Cohen
 9 Milstein a Leading Firm in Antitrust and Class Action Litigation in 2021 and 2022, and National Trial
 10 Lawyers named it “Antitrust Law Firm of the Year” in 2020.

11 In a fairness hearing in *In re Broilers*, the court praised the “exceptional outcome” achieved
 12 by co-lead counsel—including Cohen Milstein—noting that “the end-user class plaintiffs have
 13 recovered more from the settling defendants than any other class.” Transcript of Proceedings at 10,
 14 18, *In re Broilers*, No. 1:16-cv-08637 (N.D. Ill. Dec. 20, 2021), ECF No. 5315. Similarly, at a final
 15 approval hearing for *In re Dental Supplies Antitrust Litig.* (“*Dental Supplies*”), a price fixing case in
 16 which Cohen Milstein served as co-lead counsel, Judge Brian M. Cogan explained: “This is a
 17 substantial recovery that has the deterrent effect that class actions are supposed to have, and I think it
 18 was done because we had really good Plaintiffs’ Lawyers in this case who were running it.” Transcript
 19 of Civil Cause for Fairness Hearing at 22, *Dental Supplies*, No. 1:16-cv-00696, (E.D.N.Y. June 24,
 20 2019), ECF No. 350. *See also Le v. Zuffa, LLC*, (“*Zuffa*”), No. 2:15-cv-01045 (D. Nev.) (Cohen
 21 Milstein serving as co-lead counsel representing MMA fighters and court stated it would grant class
 22 certification); *UFCW & Emps. Benefit Trust v. Sutter Health*, (“*Sutter Health Antitrust Litig.*”), No.
 23 CGC-14-538451 (Cal. Sup. Ct. Aug. 27, 2021) (Cohen Milstein was one of five firms that litigated
 24 against Sutter Health for restraining competition through anticompetitive contracting practices, and
 25 the court granted final approval of a \$575 million eve-of-trial settlement).

26 The Cohen Milstein team also has substantial experience litigating complex antitrust class
 27 actions across the board. The team is composed of an experienced group of partners and associates,
 28 all of whom specialize in enforcing antitrust laws and have deep experience litigating antitrust class

1 actions. Cohen Milstein also has a strong commitment to diversity and the development of junior
 2 attorneys.

3 The Cohen Milstein attorneys principally responsible for this case are Daniel H. Silverman,
 4 Alison S. Deich, Richard A. Koffman, and Leonardo Chingcuanco.

5 **Daniel H. Silverman** is a partner in the Antitrust practice at Cohen Milstein and is highly
 6 regarded for his deep engagement with economic experts and for successfully shepherding cases
 7 through class certification. In 2022, *Law360* named him a “Rising Star - Antitrust,” the only plaintiffs’
 8 lawyer to be so named, citing Mr. Silverman’s keen interest in the dynamic interplay of economics,
 9 econometrics, and social science in driving antitrust law and economic justice. Mr. Silverman has
 10 played a crucial role in litigating several complex antitrust class actions, including *Domestic Drywall*;
 11 *In re: Plasma-Derivative Protein Therapies Antitrust Litig.*, 1:09-cv-07666 (N.D. Ill.) (Cohen
 12 Milstein, as co-lead counsel, obtained settlements totaling \$128 million for conspiracy to reduce the
 13 supply and increase prices of life-saving therapies derived from blood plasma); and *Nitsch v.*
 14 *DreamWorks Animation SKG Inc.*, No. 14-CV-04062-LHK, 2017 WL 2423161, at *8 (N.D. Cal. June
 15 5, 2017) (Cohen Milstein, as co-lead counsel, obtained total recovery of \$168.95 million on behalf of
 16 class). He also currently serves as co-lead counsel in *In re: Int. Rate Swaps Antitrust Litig.*, No. 1:16-
 17 md-02704 (S.D.N.Y) (class action against several of the world’s largest investment banks alleged to
 18 have colluded to crush competition in the trillion-dollar market for interest rate swaps), *Zuffa* (co-lead
 19 counsel on behalf of MMA fighters alleging that Zuffa LLC has unlawfully monopolized several
 20 MMA-related markets), and *Moehrl* (co-lead counsel in case alleging that real estate broker
 21 franchisors conspired to require home sellers to pay home buyer brokers fees at an inflated rate, and
 22 court recently certified two classes). Prior to joining the firm in 2012, Mr. Silverman served as the
 23 Executive Director of Legal Economics, LLC, supporting expert economic testimony in a variety of
 24 antitrust matters and providing him unique insight into the inner workings of expert testimony in
 25 antitrust matters.

26 **Alison S. Deich** is a partner in Cohen Milstein’s antitrust group, where she litigates cutting-
 27 edge antitrust and civil rights cases. The National Law Journal recognized her as a 2023 Elite Trial
 28 Lawyers “Rising Star of the Plaintiffs Bar.” Ms. Deich plays an integral role in several high-profile

1 antitrust cases where Cohen Milstein is co-lead counsel, including *Jien v. Perdue Farms, Inc.*, 1:19-
 2 cv-02521 (D. Md.) (Court has preliminarily approved \$195.25 million in settlements (against a subset
 3 of Defendants) in case alleging that chicken and turkey producers conspired to suppress workers’
 4 wages) and *In re Broilers*. Before joining the firm in 2017, Ms. Deich clerked on the California
 5 Supreme Court, the United States District Court for the Southern District of New York, and the United
 6 States Court of Appeals for the District of Columbia Circuit.

7 **Richard A. Koffman** is a partner at Cohen Milstein and former Co-Chair of the Antitrust
 8 practice group. Mr. Koffman has repeatedly been recognized as one of the world’s top plaintiffs’
 9 antitrust lawyers. Mr. Koffman is named in *Global Competition Review*’s “Who’s Who Legal:
 10 Thought Leaders – Competition 2022”—one of only 40 plaintiffs’ antitrust attorneys in the United
 11 States to earn this distinction. Mr. Koffman has been named annually as one of the top plaintiffs’ class
 12 action antitrust litigators in the United States by *The Legal 500* (since 2010) and to *Global Competition*
 13 *Review*’s “Who’s Who Legal: Competition” (since 2016), Lawdragon’s 500 Leading Plaintiff
 14 Financial Lawyers (since 2019), and Washington, D.C. Super Lawyers (since 2020).

15 Mr. Koffman has served as court-appointed lead or co-lead counsel in many landmark antitrust
 16 class actions, including *In re Urethane*, which as noted above resulted in the largest price-fixing
 17 verdict in U.S. history. Mr. Koffman’s other recent successes include *Dental Supplies* (obtaining \$80
 18 million settlement as co-lead counsel based on allegations that the three largest dental supply and
 19 dental equipment distributors in the United States fixed price margins on dental equipment, jointly
 20 pressured manufacturers to squeeze out competitors, and agreed not to “poach” employees) and *In re:*
 21 *Plasma-Derivative Protein Therapies Antitrust Litig.*

22 **Leonardo Chingcuanco** is an associate at Cohen Milstein, where he works on a variety of
 23 ongoing antitrust matters, including *Moehrl and Mohawk Gaming Enterprises LLC v. Light & Wonder*
 24 *Inc.*, AAA Case No. 01-20-0015-619. Previously, Mr. Chingcuanco was a law clerk for the Honorable
 25 Rosemary Collyer of the U.S. District Court for the District of Columbia.

26 **3. Cohen Milstein Has the Resources to Effectively Litigate this Case.**

27 The final Rule 23(g) factor is whether counsel has sufficient resources to effectively represent
 28 the class. *See Fed. R. Civ. P. 23(g)(1)(A)(iv).* The Court must be satisfied that counsel “will commit

1 sufficient attorney time and financial resources to vigorously prosecute the putative class's claims.”

2 *Smith v. State Farm Mut. Auto. Ins. Co.*, 301 F.R.D. 284, 289 (N.D. Ill. 2014).

3 Cohen Milstein more than meets this standard. It is one of the most established and respected
 4 plaintiffs' firms in the country. The firm is well capitalized and possesses a robust investigatory and
 5 litigation team. Cohen Milstein has over one hundred attorneys and offices in eight cities across the
 6 United States. The firm consistently advances millions of dollars in litigation costs in matters of
 7 comparable size and complexity and will not seek any litigation funding to litigate this case.

8 Plaintiffs face a difficult and resource-intensive fight. There likely will be multiple expert
 9 reports, dozens of depositions, and the need to review, search through, and analyze the hundreds of
 10 thousands of documents that Defendants will produce. Cohen Milstein is prepared to assume the
 11 financial obligations required to litigate this case and will advance costs (and professional time) on a
 12 contingent basis through trial and any appeals. Cohen Milstein has shown the ability and willingness
 13 to spend the time and money, and to commit a roster of talented attorneys and capable professional
 14 staff, to litigate Plaintiffs' claims successfully to conclusion.

15 **4. Cohen Milstein Will Ensure Efficient Litigation of this Matter.**

16 Rule 23(g) states that a court “may consider any other matter pertinent to counsel’s ability to
 17 fairly and adequately represent the interests of the class.” Fed. R. Civ. P. 23(g)(1)(B). Cohen Milstein
 18 will advocate for the proposed class efficiently and effectively. With the exception of limited
 19 assistance from competent local counsel, Cohen Milstein plans to litigate the Indirect Purchaser case
 20 largely by itself. As a result, a small number of attorneys will spend a large proportion of their time
 21 litigating this case, leading to deep institutional knowledge of the facts, and ensuring excessive
 22 attorney time is not billed and excessive costs are not incurred. This will prioritize the maximum
 23 possible recovery for the proposed class.

24 In addition, as discussed above, Cohen Milstein has already established a close working
 25 relationship with the law firms that have filed related cases on behalf of direct purchasers of Energizer
 26 Battery Products by coordinating its investigation of this case with them. *See* Silverman Decl. ¶ 2.
 27 Cohen Milstein will also work closely with local counsel at McCracken, Stemerman & Holsberry,
 28 LLP, with whom it has successfully litigated class action cases previously. *See, e.g.*, *Sutter Health*

1 *Antitrust Litig.*, *supra*, No. CGC-14-538451 (Cal. Sup. Ct. Aug. 27, 2021) (resulting in \$575 million
 2 eve-of-trial settlement in antitrust class action).⁵ Cohen Milstein intends to continue to work closely
 3 with those firms as the cases progress, which will further promote efficiency and reduce duplicative
 4 efforts among the cases wherever possible.

5 Cohen Milstein is uniquely positioned to work efficiently with counsel for Direct Purchasers
 6 because it has successfully served as co-lead counsel with many of the attorneys and law firms
 7 representing the Direct Purchaser Plaintiffs. *See, e.g.*, *Dental Supplies*, No. 1:16-cv-00696 (E.D.N.Y.)
 8 (Cohen Milstein and Berger Montague served as co-lead counsel and class recovered \$80 million in
 9 settlements); *Domestic Drywall*, No. 2:13-md-02437 (E.D. Pa.) (Cohen Milstein and Berger Montague
 10 served as co-lead counsel and obtained \$190 million in settlements); *Zuffa*, No. 2:15-cv-01045 (D.
 11 Nev.) (Cohen Milstein and Berger Montague part of co-lead counsel group and court stated it would
 12 grant class certification).

13 **IV. CONCLUSION**

14 Plaintiffs respectfully request that the Court appoint Cohen Milstein as interim lead class
 15 counsel. A proposed order is attached.

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18 ⁵ MSH Partner Sarah Grossman-Swenson is leading MSH's efforts as local counsel. She has
 19 represented employees, consumers, and employee benefit funds in a variety of cases, including
 20 antitrust class actions, discrimination cases, consumer rights cases, and employee class actions.
 21 She has served as counsel in trial and appellate courts and in numerous private arbitrations.
 22 *Northern California Super Lawyers* has selected her as a "Super Lawyer" each year since 2020,
 23 and as a "Rising Star" in each year from 2013-2018. Along with co-counsel, she was awarded a
 24 California Lawyer Attorney of the Year (CLAY) Award in 2022 by the *Daily Journal* for work
 25 in *UFCW & Employers Benefit Trust v. Sutter Health*, S.F. Superior Court Case No. CGC-14-
 26 538451, 241 Cal. App. 4th 909 (2015). She has served as trial and appellate counsel in a variety
 27 of other cases, including *City of Oakland v. Oakland Police & Fire Retirement System*, 224 Cal.
 28 App. 4th 210 (Cal. Ct. App. 2014) & 29 Cal. App. 5th 688 (Cal. Ct. App. 2018); *Gruma Corp. v.
 United Food & Commercial Workers Union, Local 99*, 472 Fed. App'x 644 (9th Cir. 2012); *Ellis
 v. Costco Wholesale Corp.*, 240 F.R.D. 627 (N.D. Cal. 2007), 657 F.3d 970 (9th Cir. 2011), No.
 C04-3341 EMC, 2014 WL 12651574 (N.D. Cal. May 27, 2014) (resulting in a court-approved
 class action settlement); and *Dukes v. Wal-Mart Stores, Inc.*, No. 3:01-CV-02252-CRB, 2015
 WL 3623481 (N.D. Cal. June 10, 2015) (resulting in a confidential settlement). Grossman-
 Swenson was admitted to practice in California in 2008 after graduating earlier that year from
 University of California at Berkeley, School of Law, where she was a Co-Editor-in-Chief of the
Berkeley Journal of Employment and Labor Law. She is a 2001 graduate of Stanford University,
 where she received an A.B. degree in History and was a President's Scholar and National Merit
 Scholar.

1 Dated: June 9, 2023

2
3 Respectfully submitted,

4 /s/ Daniel H. Silverman

5 Daniel H. Silverman (*pro hac vice*)
6 **COHEN MILSTEIN SELLERS & TOLL PLLC**
7 769 Centre Street, Suite 207
Boston, MA 02130
Tel: (202) 408-4600
Fax: (202) 408-4699
dsilverman@cohenmilstein.com

8 Alison Deich (*pro hac vice*)
9 Richard Koffman (*pro hac vice*)
10 Leonardo Chingcuanco (*pro hac vice*) (SBN 308640)
11 **COHEN MILSTEIN SELLERS & TOLL PLLC**
12 1100 New York Ave. NW, Suite 500
Washington, DC 20005
Tel: (202) 408-4600
Fax: (202) 408-4699
lchingcuanco@cohenmilstein.com

13 *Counsel for Plaintiffs Don Copeland, Joseph Murray, Carol*
14 *Smith, Patrick Whitney, Phillip Hague, Denise Fotis,*
15 *Roxann Doriott, Bruce Mims, Lori Ably, Timothy Brown,*
16 *Peter Costas, and Mike Ballard and Proposed Lead Counsel*
17 *for Indirect Purchaser Class*

18 Sarah Grossman-Swenson (SBN 259792)
19 Kimberley C. Weber (SBN 302894)
20 **MCCRACKEN STEMERMAN & HOLSBERRY LLP**
21 475 14th Street, Suite 1200
Oakland, CA 94612
(415) 597-7200
sgs@msh.law
kweber@msh.law

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28 *Local Counsel for Plaintiffs*

SIGNATURE ATTESTATION

Pursuant to Northern District of California Civil Local Rule 5-1(h)(3), I attest that I have obtained the concurrence of any individual for whom a signature is indicated by /s/ on this document to file Plaintiffs' Notice and Motion to Appoint Interim Lead Class Counsel Pursuant to Fed. R. Civ. P. 23(g). I have records to support this concurrence for subsequent production for the Court, if necessary.

Dated: June 9, 2023

/s/ Daniel H. Silverman